

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3976 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SURESH S PATEL

Versus

PUBLIC WORK DEPTT

Appearance:

MRS DT SHAH for Petitioners
MRS RV ACHARYA for Respondent Nos. 1 to 3
MR DD VYAS for Respondent No. 4, 5

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 20/03/2001

ORAL JUDGEMENT

#. Heard the learned counsel Mrs.D.T.Shah for the petitioner. The learned AGP could not assist the court for want of relevant papers. None present for respondent nos.4 and 5.

#. After arguing at some length the learned counsel for the petitioner submitted that one of the main grievances of the petitioners regarding the grant of pay-scale and other benefits does not survive in view of interim order of this Court dated 30.11.1988 and the implementation of the resolution dated 17.10.1988 mentioned in the said order. The learned counsel fairly conceded that the other main grievances regarding benefits consequential to the claim of being made permanent with effect from an earlier date involve issues of facts which are disputed by the respondents through their successive affidavits-in-reply. It appears from the record that the nature and conditions of original appointment of the petitioners and their continuity or the number of days that they have worked under the respondent are subject matter of serious dispute and the same cannot be resolved in a petition under Article 226 of the Constitution. It also appears from the rival contention that, after filing of the petition in 1988 and implementation of the aforesaid resolution, the petitioners have started enjoying varying benefits according to their entitlement. That would, however, not preclude the petitioners from making any further demands or raising any industrial dispute which may be dealt with in accordance with law. In this view of the matter, the petition could not be pressed for any further reliefs and the learned counsel for the petitioner requested not to make any observation on the factual basis and merits of the claims of the petitioners. Accordingly, the petition is disposed with liberty to the petitioners to raise their demand or dispute regarding permanency in service or permanency benefits, if they are so advised. If such demand or dispute are raised the same may be dealt with in accordance with law. Rule is discharged with no order as to costs.

kks (D. H. WAGHELA, J.)

